

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Adam H. MOLINA, et al.
Title: MULTIPLE LAYER TUBING AND METHOD OF MAKING SAME
Appl. No.: 10/749,468
Filing Date: 12/31/2003
Examiner: Victoria P. Campbell
Art Unit: 3763
Confirmation No.: 3984

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed November 10, 2008, concerning the above-referenced patent application, Applicant hereby provisionally elects Group II (Claims 1; 5; 6; 8-14; 17-25; 27; and 29-46), for examination, with traverse. Applicant reserves the right to file a divisional application covering the subject matter of the non-elected claims.

Applicant respectfully requests reconsideration of the restriction/election requirement in view of the foregoing reasons that follow.

The Examiner has required restriction between Claims 2-4, and 7 drawn to tubing (Group I) and Claims 1, 5, 6, 8-14, 17-25, 27, and 29-46, drawn to a second tubing and a method of making said second tubing (Group II).

The restriction requirement is respectfully traversed because claims subject to the restriction have already been the subject of the search, examination and a previous office action issued during the prosecution of the present application. For example, while claims 2-4 and 7 were identified by the Examiner as being directed to an invention that is different from that of the other pending claims in the application, it is noted that claim 2 was already examined and was the subject of the search and a rejection

made in connection with the Office Action dated April 29, 2008. The amended version of claim 2 (as presented in the Amendment dated July 29, 2008) is an independent version of claim 2 as previously presented (i.e., amended to include the subject matter of base claim 32 and intervening claim 1). Accordingly, claim 2 (in a dependent form) has already been the subject of search and examination in the present application and should not now be restricted (in its independent form) from the rest of the claims.

Claim 3 was not amended in the previous Amendment and claims 4 and 7 were amended in the previous Amendment to change the dependency to claim 2. As claims 3, 4 and 7 were also the subject of previous search and examination in the present application, those claims also should not be restricted from the rest of the claims. Accordingly, Applicant requests that the restriction requirement be withdrawn and that the examination continue with all of the pending claims, consistent with the file history of the present application (where all of the claims have already been the subject of search and examination).

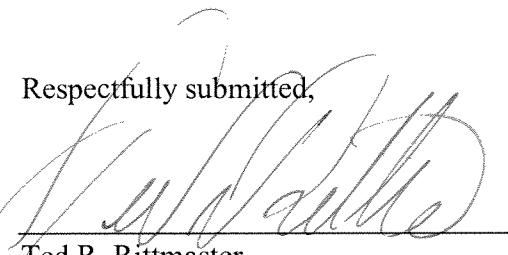
Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: 11/26/08
FOLEY & LARDNER LLP
Customer Number: 23392
Telephone: (213) 972-4500
Facsimile: (213) 486-0065

By: 
Ted R. Rittmaster
Attorney for Applicant
Registration No. 32,933